

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

In re: DAVID DARLING and KIMBERLEE DARLING, Debtors.	Chapter 7 Case No. 16-10367-DF
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**ASSENTED-TO MOTION OF BAYVIEW LOAN SERVICING, LLC
TO CONTINUE HEARINGS**

NOW COMES M&T Bank as serviced by Bayview Loan Servicing, LLC (“**Bayview**”) and respectfully requests pursuant to RILBR 5071-1 that this Court continue the hearings scheduled on Bayview’s motion for relief from stay as well as the status conference on the related loss mitigation from July 6, 2016 to August 3, 2016 or such later date as is convenient for the Court. Debtors David Darling and Kimberlee Darling assent to this motion. In support of this motion, Bayview states as follows.

STATEMENT OF MATERIAL FACTS

1. David Darling and Kimberlee Darling (the “**Debtors**”) are individuals who currently have an ownership interest in the property known and numbered as 219 Perry Hill Road, Coventry, Rhode Island (the “**Property**”).
2. The movant, Bayview, has a principal place of business at 4425 Ponce de Leon Boulevard, Coral Gables, Florida.
3. On or about June 8, 2007, the Debtors executed and delivered to Shamrock Financial Corporation (the “**Lender**”) a note in the original amount of \$273,400.00 (the “**Note**”). Simultaneously therewith, as security for the obligations under the Note, the

Debtors executed and delivered to Mortgage Electronic Registration Systems, Inc. as nominee for the Lender a mortgage (the “**Mortgage**”) on the Property.

4. Bayview is the assignee of the Mortgage.
5. On March 2, 2016, the Debtors filed a Chapter 7 petition, commencing the present case.
6. On April 4, 2016, the Debtors filed a notice of loss mitigation regarding the Property.
7. On May 11, 2016, Bayview filed its motion for relief from stay regarding the Property.
8. On June 10, 2016, the Court granted the Debtors’ a Chapter 7 discharge.
9. By agreement of the parties, the Court has scheduled Bayview’s motion for relief from stay for hearing on July 6, 2016.
10. By agreement of the parties, the Court has scheduled a status conference for the Debtors’ loss mitigation efforts for July 6, 2016.
11. Bayview and the Debtors have spoken – through counsel – regarding the effect of the Debtors’ discharge on the loss mitigation efforts.
12. The Debtors are considering approaching the Court for an order to resolve that issue so that the Debtors’ loss mitigation efforts can proceed.
13. The Debtors assent to this motion.

CONCLUSIONS OF LAW

14. This Court should grant this motion and continue the hearingS. “All requests for continuance of matters set for hearing or trial must be requested in writing,

no later than 3:00 p.m. the day before the scheduled hearing if the motion is consented to by all parties to the matter.” RILBR 5071-1. In this case, all parties consent to the motion to continue the hearings. Further, Bayview has filed this motion prior to 3 p.m. before the day of the scheduled hearing. Therefore, this Court should grant this motion and continue the hearings.

WHEREFORE, Bayview respectfully requests that this Court enter an order:

- Granting this motion;
- Continuing the hearing on the Motion for Relief to August 3, 2016 or such later date as is convenient for the Court
- Continuing the status conference on the loss mitigation to August 3, 2016 or such later date as is convenient for the Court;
- Waiving the requirement that all interested parties appear at the hearing scheduled for July 6, 2016; and
- Granting Bayview such other and further relief as is just and proper.

Respectfully submitted,

M&T BANK AS SERVICED BY
BAYVIEW LOAN SERVICING, LLC,

By its attorneys,

MICHIEENZIE & SAWIN, LLC,

/s/ Amy Magher

Amy Magher, Esq. – RI Bar No. 9241
155 South Main Street, 2nd Floor
Providence, RI 02903-2907

DATE: July 5, 2016

CASE NAME: Kimberlee Darling and David Darling
CASE NUMBER: 16-10367-DF
CASE CHAPTER: 7

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

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CERTIFICATE OF SERVICE

I, Amy Magher, Esq. of the law firm of Michienzie & Sawin, LLC hereby certify that I have this 5th day of July 2016, served on behalf of M&T Bank as serviced by Bayview Loan Servicing, LLC, an Assented-to Motion of Bayview Loan Servicing, LLC to Continue Hearings and this Certificate of Service by causing copies hereof to be sent by first-class, U.S. mail, postage pre-paid (M) or by electronic mail via the court's electronic filing system (ECF), to the following:

David Darling Kimberlee Darling 219 Perry Hill Road Coventry, RI 02816 (M)	Peter J. Furness, Esq. Richardson, Harrington & Furness 182 Waterman Street Providence, RI 02906 (ECF)
Assistant U.S. Trustee Gary L. Donahue Office of the U.S. Trustee, U.S. Courthouse One Exchange Terrace Suite 431 Providence, RI 02903 (ECF)	Trustee Stacy B. Ferrara Nolan, Brunero, Cronin & Ferrara, Ltd. 1070 Main Street Coventry, RI 02816 (ECF)

Tax Collector's Office Town of Coventry 1670 Flat River Road Coventry, RI 02816 (M)	
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/s/ Amy Magher
Amy Magher

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**ENTRY OF APPEARANCE AND REQUEST FOR SERVICE
IN ACCORDANCE WITH BANKRUPTCY RULE 2002**

The undersigned hereby enters her appearance on behalf of M&T Bank as serviced by Bayview Loan Servicing, LLC, and respectfully requests that she be placed on the service list and that all copies of all orders, pleadings, notices and all other documents, including notice of any abandonment of property, that are filed with this Court or with the Office of the United States Trustee and served on parties in interest be duly served on the undersigned at the address set forth in accordance with Fed. R. Bankr. P. 2002.

Respectfully submitted,

/s/ Amy Magher

Amy Magher, Esq. – RI Bar No. 9241
MICHIEENZIE & SAWIN, LLC
155 South Main Street, 2nd Floor
Providence, RI 02903-2907

DATE: May 11, 2016